

March 6, 1974

they say that's right, we've got to get busy and do this. However, there's a technicality here, there's a technicality there, there's a technicality someplace else. That prevents the children from getting the money. Now, it's my understanding that a lawyer is a technician and that a lawyer ought to be able to solve those technicalities. I have yet to have a lawyer come to me with a sensible solution to the technicality except the one that our Judicial Committee came out with on garnishment and this is going to be a tremendous step forward. Now any help that we can give in any area, if it has a technical flaw, it has a technical flaw, but our hearts should be where the children are. We should support this bill and all other bills in this area and support them today. Thank you.

PRESIDENT: Senator Cavanaugh.

SENATOR CAVANAUGH: Mr. President, are we addressing the amendment now or the bill and the amendment has been adopted?

PRESIDENT: Yes, we're addressing the amendment which has become the bill.

SENATOR CAVANAUGH: The amendment has been adopted.

PRESIDENT: The amendment has not yet been adopted.

SENATOR CAVANAUGH: Okay, I suppose it doesn't....I would speak against the bill both as amended and unamended. I'll be more vigorously opposed to the bill unamended. I voted the bill out of committee with an explanation to Senator Schmit at that time, that if he could pursue some other course through the amendment that might be legally acceptable that I would.....

(End of Belt 2A)

(Begin Belt 3A)

possibly support it, otherwise I would oppose it. Now, the amendment that he has, I find that I must oppose it primarily because I do think it is fundamentally unconstitutional, unworkable, and would not appreciably accomplish what Senator Schmit and Senator Kelly in all sincerity seek to accomplish which is an improvement in child support payments. I think it would rather work as an impairment and a detriment and possibly be subject to a great many abuses in that the bill provides that the discretion would be, would be in the clerk, first of all to report who was in arrears and then to a hearing officer of the Department of Motor Vehicles to determine whether the license should be revoked on the basis of the clerk's report as I read the bill. And there's no provision for justifications. The basic law with regard to child support payments is now that you have an opportunity to show cause, why you have not paid, and that the failure to pay must be a willful one, a refusal rather than something related to cause which would be lack of employment or income, sickness, disability, whatever, the courts will take cognizance of those situations and express a judgment accordingly. I don't think that that discretion would lie in the hearing officer of the Department of Motor Vehicles with regard to the license. If the clerk submitted his report that the payments had not been made for 60 days under the law as Senator Schmit now has it, his license would be revoked.